

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HARRISON DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

No. 3:19-CR-30003-008

MALIA ANNE MCENANEY

DEFENDANT

**OPINION AND ORDER**

Defendant Malia Anne McEnaney filed a second motion (Doc. 705) to modify her sentence pursuant to the First Step Act amendments to 18 U.S.C. § 3582(c). The Government filed a response (Doc. 707) in opposition. On May 3, 2021, Defendant filed her first motion (Doc. 691) to modify her sentence pursuant to § 3582(c), which the Court denied on May 20, 2021 (Doc. 697).

Because this is Defendant's second motion for a § 3582(c) sentence reduction, and because Defendant cites identical reasons for a sentence reduction in this motion (the poor health of her husband and child), the Court will construe Defendant's motion (Doc. 705) as a motion for reconsideration, the timeliness of which is governed by Federal Rule of Appellate Procedure 4(b). *See United States v. Mofle*, 989 F.3d 646, 648 (8th Cir. 2021) (holding that a second motion for a § 3582(c) sentence reduction based on the same grounds addressed by previous court order should be treated as a motion for reconsideration subject to Rule 4(b)'s timeliness requirements.)

Under Rule 4(b), a defendant must file a motion for reconsideration within 14 days of denial of her previous motion, though the court may extend this time period by an additional 30 days. Here, 176 days elapsed between the Court's order denying Defendant's motion to modify sentence and her motion for reconsideration. As such, Defendant's motion is untimely.

IT IS THEREFORE ORDERED that Defendant's motion (Doc. 705) will be DENIED.

IT IS SO ORDERED this 17th day of November, 2021.

/s/ P. K. Holmes, III

P.K. HOLMES, III  
U.S. DISTRICT JUDGE